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EXAMINER

PHILLIPS, HASSAN A

ART UNIT PAPER NUMBER

2151

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/810,559

Applicant(s)

HOGLUND ET AL.

Examiner

Hassan Phillips

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 66-87 and 90-130 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 66-87 and 90-130 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Requirement for Information</u> . |

DETAILED ACTION

1. This action is in response to communications filed April 5, 2006.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 5, 2006 has been entered.

Claim Objections

3. In consideration of the amendments made to claims 88 and 89, examiner has withdrawn the objection to the claims.

Response to Arguments

4. Applicant's arguments filed August 4, 2005 have been fully considered but they are not persuasive. Applicant argued that:

- a) The description following the first full paragraph on page 13 of the specification is not prior art;
- b) AAPA does not teach processing means for processing messages from within both a first and a second data message account;

- c) There is no motivation to modify the teachings of the AAPA using Coskrey;
- d) AAPA fails to teach, at least, a device action manager, a download manager, a message lookup manager, and a message processor;
- e) AAPA fails to teach, at least, the accessing of subscriber information by the scheduler;
- f) AAPA fails to teach downloading messages subsequent to receiving an indication from the scheduler;
- g) AAPA does not teach the feature of a message processor converting the message format of the third communication device to a message format of the at least first wireless communication device;
- h) AAPA does not teach the feature of lookup manager deleting a message when corresponding messages are deleted on the at least one third communications device;
- i) AAPA fails to teach, at least, gateways having a common domain name associated therewith;
- j) AAPA fails to teach a gateway transmitting signals on a real time basis with the at least one first and second wireless communication devices;
- k) AAPA fails to teach, at least, a fax being transmitted in real time by the first and second gateway;
- l) AAPA fails to teach, at least, that the predetermined criteria of claims 66 and 91 as an Internet domain;

- m) AAPA fails to teach, at least, that the Internet domain name is the name of an organization or of an individual, combined with a top level domain name;
- n) AAPA fails to teach, at least, the specific top level domain names recited in the claims;
- o) AAPA fails to teach, at least, the predetermined criteria comprising an identifier;
- p) AAPA fails to teach, at least, a third communication device that is an email server storing messages and having a second identifier;
- q) AAPA fails to teach, at least, allowing a user to select between real-time and polled transmission;
- r) AAPA fails to teach allowing a user to select a name of a specified email account;
- s) AAPA fails to teach, at least, providing a means by which the user can specify the time at which an email message is downloaded;
- t) AAPA fails to teach the at least one second gateway monitoring which of the at least one first wireless communication device has requested to download a message;
- u) AAPA fails to teach the at least one second gateway monitoring when messages associated with the first wireless communications device are to be downloaded;

- v) AAPA fails to teach, at least, where the at least one second gateway recognizes an identifier, and selects only those messages that have not been downloaded;
- w) AAPA fails to teach, at least, where the at least one second gateway retrieves messages not yet downloaded;
- x) AAPA fails to teach either option for further limiting predefined criteria.

Examiner respectfully disagrees with applicant's assertions.

5. Regarding item a), Examiner maintains the description following the first full paragraph on page 13 of the specification is prior art since applicant indicates the teachings were "in recent years". Examiner submits "in recent years" is an indication that the teachings were known for more than one year prior to the filing of applicant's claimed invention.

6. Regarding item b), AAPA recites, "such e-mail messages are generally received on either a polled or real time basis, where the user has to select the preferred delivery method" (AAPA, page 14). AAPA further discloses accounts associated with the preferred delivery method, (AAPA, pages 14-15). Thus, Examiner submits AAPA does teach, processing means for processing messages from within both a first and a second data message account since the teachings of AAPA allows for processing messages from within both a first and second data message account depending on a users preferred delivery method.

7. Regarding item c), in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art to modify the teachings of the AAPA to have a first and second gateway operatively connectable to each other to perform the at least one of real-time and polled transmission since Coskrey teaches it is advantageous to have first and second gateways operatively connectable to each other to provide highly desirable services (i.e. real-time and polled transmission) to a user, (Coskrey col. 4, lines 36-38).

8. Regarding item d), Examiner agrees AAPA fails to expressly disclose at least, a device action manager, a download manager, a message lookup manager, and a message processor. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "users can access their Internet mailbox...by...setting one or more times at which they wish to receive their messages", (AAPA, pages 13-15).

9. Regarding item e), Examiner agrees AAPA fails to expressly disclose at least, the accessing of subscriber information by the scheduler. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "users can access their Internet mailbox...by...setting one or more times at which they wish to receive their messages", (AAPA, pages 13-15).

10. Regarding item f), Examiner agrees AAPA fails to expressly disclose downloading messages subsequent to receiving an indication from the scheduler. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "users can access their Internet mailbox...manually by...clicking a "Get Messages" or similar icon", (AAPA, pages 13-15).

11. Regarding item g), as indicated in previous actions the feature of a message processor converting the message format of the third communication device to a message format of the at least first wireless communication device is implicit in the teachings of AAPA, (AAPA, pages 13-15). In the remarks applicant admits such a feature is inherent, however would not have been recognized by one of ordinary skill in the art, as necessary to establish a prima facie case of obviousness. Examiner submits it is proper to base a 103 rejection in part on an inherent disclosure in the cited reference (see MPEP 2112), and there would have been no need for one of ordinary skill in the art, as necessary to establish a prima facie case of obviousness for this particular limitation.

12. Regarding item h), as indicated in previous actions the feature of lookup manager deleting a message when corresponding messages are deleted on the at least one third communications device is implicit in the teachings of AAPA, (AAPA, pages 13-15). In the remarks applicant admits such a feature is inherent, however would not have been recognized by one of ordinary skill in the art, as necessary to establish a prima facie case of obviousness. Examiner submits it is proper to base a 103 rejection in part on an inherent disclosure in the cited reference (see MPEP 2112), and there would have been no need for one of ordinary skill in the art, as necessary to establish a prima facie case of obviousness for this particular limitation.

13. Regarding item i), Examiner agrees AAPA fails to expressly disclose, at least, gateways having a common domain name associated therewith. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "users are provided a unique e-mail address having the form <username>@2way.net. Other message forms and/or domain names may also optionally be utilized", (AAPA, pages 13-15).

14. Regarding item j), Examiner agrees AAPA fails to expressly disclose a gateway transmitting signals on a real time basis with the at least one first and second wireless communication devices. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "in a real time

delivery scheme, user's are generally provided a new, unique e-mail address, which obviously provides the user with an e-mail account that is separate from their desktop e-mail account", (AAPA, pages 13-15).

15. Regarding item k), Examiner agrees AAPA fails to expressly disclose a fax being transmitted in real time by the first and second gateway. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "these services allow users to, for example, send and receive e-mail messages, as well as provide other messaging services such as paging and faxing", (AAPA, pages 13-15).

16. Regarding item l), Examiner maintains AAPA discloses, at least, that the predetermined criteria of claims 66 and 91 is an Internet domain particularly where AAPA teaches "users are provided a unique e-mail address having the form <username>@2way.net. Other message forms and/or domain names may also optionally be utilized", (AAPA, pages 13-15).

17. Regarding item m), Examiner maintains AAPA discloses, at least, that the Internet domain name is the name of an organization or of an individual, combined with a top level domain name particularly where AAPA teaches "users are provided a unique e-mail address having the form <username>@2way.net. Other message forms and/or domain names may also optionally be utilized", (AAPA, pages 13-15).

18. Regarding item n), Examiner maintains AAPA discloses, at least, the specific top level domain names recited in the claims particularly where AAPA teaches “users are provided a unique e-mail address having the form <username>@2way.net. Other message forms and/or domain names may also optionally be utilized”, (AAPA, pages 13-15).

19. Regarding item o), Examiner agrees AAPA fails to expressly disclose predetermined criteria comprising an identifier. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches “the information is transmitted from the receiving interface switch 162 to the RF information transmission network with an address of the destination processor, such as a name of a user of the destination processor”, (AAPA, pages 7-10).

20. Regarding item p), Examiner agrees AAPA fails to expressly disclose a third communication device that is an email server storing messages and having a second identifier. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches “the information is transmitted from the receiving interface switch 162 to the RF information transmission network with an address of the destination processor, such as a name of a user of the destination processor”, (AAPA, pages 7-10).

21. Regarding item q), Examiner submits AAPA discloses, at least, allowing a user to select between real-time and polled transmission particularly where AAPA teaches "such e-mail messages are generally received on either a polled or real time basis, where the user has to select the preferred delivery method", (AAPA, pages 13-15).

22. Regarding item r), Examiner agrees AAPA fails to expressly disclose allowing a user to select a name of a specified email account. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "users are provided a unique e-mail address having the form <username>@2way.net. Other message forms and/or domain names may also optionally be utilized", (AAPA, pages 13-15).

23. Regarding item s), Examiner submits AAPA discloses at least, providing a means by which the user can specify the time at which an email message is downloaded, particularly where AAPA teaches "users can access their Internet mailbox...by...setting one or more times at which they wish to receive their messages", (AAPA, pages 13-15).

24. Regarding item t), Examiner agrees AAPA fails to expressly disclose at least one second gateway monitoring which of the at least one first wireless communication device has requested to download a message. Nevertheless, examiner maintains such

teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "users can access their Internet mailbox...by...setting one or more times at which they wish to receive their messages", (AAPA, pages 13-15).

25. Regarding item u), Examiner agrees AAPA fails to expressly disclose at least one second gateway monitoring when messages associated with the first wireless communications device are to be downloaded. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "users can access their Internet mailbox...by...setting one or more times at which they wish to receive their messages", (AAPA, pages 13-15).

26. Regarding item v), Examiner agrees AAPA fails to expressly disclose at least, where the at least one second gateway recognizes an identifier, and selects only those messages that have not been downloaded. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "users can access their Internet mailbox...by...setting one or more times at which they wish to receive their messages", (AAPA, pages 13-15).

27. Regarding item w), Examiner agrees AAPA fails to expressly disclose at least, where the at least one second gateway retrieves messages not yet downloaded. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "users can access their Internet mailbox...by...setting

one or more times at which they wish to receive their messages", (AAPA, pages 13-15).

28. Regarding item x), Examiner agrees AAPA fails to expressly disclose either option for further limiting predefined criteria. Nevertheless, examiner maintains such teachings are implied in the teachings of AAPA. Particularly where AAPA teaches "the information is transmitted from the receiving interface switch 162 to the RF information transmission network with an address of the destination processor, such as a name of a user of the destination processor", (AAPA, pages 7-10) and "users are provided a unique e-mail address having the form <username>@2way.net. Other message forms and/or domain names may also optionally be utilized", (AAPA, pages 13-15).

29. Accordingly the references supplied by the examiner in the previous office action covers the claimed limitations. The rejections are thus sustained. Applicant is requested to review the prior art of record for further consideration.

Claim Rejections - 35 USC § 103

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claims 66-74, 76-88, 90-127, 129, 130, are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants Admitted Prior Art (AAPA), in view of Coskrey, IV (hereinafter Coskrey), U.S. Patent 6,336,171.

32. In considering claims 66, 91, and 108, the AAPA teaches a method and communications system for transmitting and/or receiving signals with at least two communication devices via at least one of a real time and a polled transmission, said communications system comprising: at least one first gateway responsively communicable with at least a first wireless communications device and at least a second wireless communications device, wherein said at least one first gateway at least one of transmits and receives signals on a real time basis with the at least one first wireless communications device and the at least one second communications device, (pages 13-15); at least one second gateway, responsively communicable with the at least one first wireless communications device and at least a third communications device, wherein the at least one second gateway at least one of transmits and receives signals on a polled basis with the at least one first communications device and the at least one third communications device, (pages 13-15); performing the real time and the polled transmission based upon predetermined criteria, (pages 13-15); and processing means for sending and receiving of messages in real time from a first data message account and by polled transmission from a second data message account, and for processing messages to the at least one of the first and second wireless communications devices from within both the first and second data message accounts,

the second data message account being a separate account using at least one of POP and IMAP, (pages 13-15).

Although the AAPA shows substantial features of the claimed invention, it fails to explicitly disclose: the first and second gateways operatively connectable to each other to perform the at least one of real time and polled transmission.

Nevertheless, having gateways operatively connectable to each other to perform various services was well known in the art at the time of the present invention. This is exemplified in the teachings of Coskrey. More specifically, Coskrey teaches a cluster environment comprising: first and Second gateways operatively connectable to each other to perform any number of services, such as e-mail services, (col. 4, lines 36-51).

Thus, given the teachings of Coskrey, it would have been obvious to one of ordinary skill in the art to modify the teachings of the AAPA to have a first and second gateway operatively connectable to each other to perform the at least one of real-time and polled transmission. Both services are desirable to users for different reasons, (AAPA, pages 13-15). Having the first and second gateways operatively connectable to each other to perform real time and polled transmission would efficiently provide both these highly desirable services to a user, instead of having the user choose between one or the other, (AAPA, pages 13-15, Coskrey col. 4, lines 36-38).

33. In considering claims 67, 92, and 109, AAPA provides a means for the at least one second gateway to comprise: a scheduler determining which of the at least one first communication devices are active, (pages 13-15); a device action manager

receiving notification from said scheduler and monitoring which of said at least one first wireless communication devices have requested to download a message, (pages 13-15); a download manager receiving notification via said scheduler at which time messages associated with each of the at least one first wireless communications device are to be downloaded, (pages 13-15); a message lookup manager determining an identifier associated with each message associated with each of the at least one first wireless communications device and selecting those messages that have not been downloaded from the at least one third communications device to the respective first communications device, (pages 13-15); and a message processor for retrieving messages not yet downloaded from the third communications device and transmitting the messages to a designated first wireless communications device as determined by a selection system, (pages 13-15).

34. In considering claims 68 and 93, the AAPA provides a means for the scheduler to determine the time at which messages for each of the at least one first wireless communications device are downloaded, (page 14).

35. In considering claims 69 and 94, the AAPA provides a means for the scheduler to access subscriber information from the selections system to determine user specified download times, (page 14).

36. In considering claims 70 and 95, the AAPA provides a means for the download manager to download messages subsequent to receiving an indication from the scheduler and the lookup manager, (page 14).

37. In considering claims 71, 96, and 129, it is implicit in the teachings of the AAPA that the message processor converts the message format of the at least one third communications device to a message format of the at least one first wireless communications device, (pages 13-15).

38. In considering claims 72, 97, and 130, it is implicit in the teachings of the AAPA that the lookup manager deletes a message record when a corresponding message is deleted on the at least second or third communications device, (pages 13-15).

39. In considering claim 73, the AAPA provides a means for each of the at least one first gateways to have a common domain name associated therewith, (pages 14-15).

40. In considering claims 74 and 127, the AAPA provides a means for the at least one second gateway to further at least one of transmit and receive signals on a real time basis with the at least one first communications device and the at least one second communications device, (pages 14-15).

41. In considering claims 76 and 90, the AAPA provides a means for the signals to comprise a facsimile transmitted from the at least one first communications device to the at least one third communications device in real time via said at least one first gateway and said at least one second gateway, (pages 13-14).

42. In considering claims 77, and 98, the AAPA teaches the predetermined criteria comprising an Internet domain name associated with each of the at least one first communications device and the at least one second communications device, (pages 15-16).

43. In considering claims 78, 99, and 115, the AAPA teaches the Internet domain name comprising at least one of a name of an organization or a name of an individual combined with a top level domain name, (pages 15-16).

44. In considering claims 79, 100, and 116, the AAPA teaches the top level domain names comprising: .com; .net; .org; .edu; .gov; .mil; and .int, (pages 15-16).

45. In considering claims 80, 101, and 121, the AAPA provides a means for the least one first communications device to comprise a wireless messaging device, the predetermined criteria to comprise a first identifier associated with at least the at least one first gateway, and the second communications device to comprise a wireless

messaging device, and the predetermined criteria to further comprise a second identifier associated with at least the at least one first gateway, wherein the at least one first communications device and the at least one second communications device transmit signals to each other via the at least one first gateway, (pages 7-10).

46. In considering claims 81, 102, and 117, the AAPA teaches the signals comprising at least one of an electronic mail message, an electronic page, and a paging message. See pages 7-10.

47. In considering claims 82 and 122, the AAPA provides a means for the least one first communications device to comprise a wireless messaging device having a first identifier associated with at least the at least one first gateway, and the at least one third communications device being an e-mail server storing messages for at least one e-mail account, each e-mail account having a second identifier associated therewith, wherein the at least one first communications device and the at least one third communications device transmit signals to each other via the first and second gateways, and wherein the predetermined criteria are respective identifiers associated with each of the at least one first communication device and the at least one third communication device, (pages 7-10).

48. In considering claims 83, 103, 119, and 123, the AAPA provides a means for the at least one second or third communications device to be a post office protocol server, (page 14).

49. In considering claims 84, 104, 120, and 124, the AAPA provides a means for the at least one third or second communications device to be an Internet messaging access protocol server, (page 14).

50. In considering claims 85, 105, and 125, the AAPA provides a means for the selection system to allow a user to select at least one of the real time and polled transmission, wherein when the user selects the polled transmission, the signals comprise at least one e-mail message that is retrieved from a specified e-mail account associated with the at least one third communications device and are transmitted to one of the at least one first communications device, (pages 13-14).

51. In considering claims 86 and 106, the AAPA provides a means for the user to select a name of the specified e-mail account via the selection system, (pages 14-15).

52. In considering claims 87, 107, and 126, the AAPA provides a means for the user to specify a time at which the at least one e-mail message is transmitted from the at least one third or second communications device to the at least one first communications device, (pages 14-15).

53. In considering claim 110, the AAPA provides a means for the at least one second gateway to monitor which of the at least one first wireless communication devices has requested to download a message from the at least one third wireless communications device, (pages 13-15).

54. In considering claim 111, the AAPA provides a means for the at least one second gateway to monitor when messages associated with each of the at least one first wireless communications device are to be downloaded, (pages 13-15).

55. In considering claim 112, the AAPA provides a means for the at least one second gateway to recognize an identifier associated with each message associated with each of the at least one first wireless communications device and selects those messages that have not been downloaded from the at least one third wireless communications device to the at least one first wireless communications device, (pages 13-15).

56. In considering claim 113, the AAPA provides a means for the at least one second gateway to retrieve messages not yet downloaded from the at least one third wireless communications device and transmits at least one message to a designated one of the at least one first wireless communications device, (pages 13-15).

57. In considering claim 114, the AAPA provides a means for the predetermined criteria to be one of a) an identifier associated with the at least one first wireless communications device and an identifier associated with the at least one second communications device, or b) an identifier associated with the at least one third wireless communications device, (pages 7-10, 13-15).

58. In considering claim 118, the AAPA teaches in a polled transmission the at least one first wireless communication device is a wireless device and the at least one third wireless communications device is a server, (page 14).

59. Claims 75, 89, 128, are rejected under 35 U.S.C. 103(a) as being unpatentable over the AAPA, in view of Coskrey, and further in view of Choquier et al. (hereinafter Choquier), U.S. Patent 5,951,694 (supplied by applicant).

60. In considering claims 75 and 128, although the system taught by the AAPA and Coskrey show substantial features of the claimed invention, it fails to expressly disclose: load balancing between the first and second gateways.

Nevertheless, load balancing was well known in the art at the time of the present invention. This is exemplified in the teachings of Choquier. More specifically Choquier teaches a method for redirecting services comprising: load considerations determining whether a first server or a second server is used for dynamically allocating services for

a communications device, wherein when service usage level is above a predetermined threshold level the second server is used, (col. 3, lines 31-49).

Thus given the teachings of Choquier, it would have been obvious to modify the teachings of the AAPA and Coskrey, to show network load considerations determining whether the at least one first gateway or the at least one second gateway is used to transmit signals from the at least one first communications device to the at least one second communications device, wherein when system traffic and/or response time is above a predetermined threshold level the at least one second gateway is used. This would have provided an efficient means for transparently using an alternate gateway for maintaining a communication between a first and second device when the original gateway is no longer capable of doing so, Choquier, col. 3, lines 51-58.

Conclusion

61. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HP/
6/29/06


ZARNI MAUNG
SUPERVISORY PATENT EXAMINER